



NORTH CAROLINA ASSOCIATION, LONG TERM CARE FACILITIES

North Carolina's Original Assisted Living Association

September 22, 1997

U.S. Department of Treasury
Ms. Cynthia L. Johnson, Director
Cash Management Policy & Planning Division
Financial Management Services
Room 426, 401 14th Street, SW
Washington, DC 20227

Dear Ms. Johnson:

Could you please review copies of the two letters enclosed and forward to me answers to our specific concerns and questions?

We have also shared our concerns with North Carolina's delegation to Congress but have heard no final rulings.

In addition, when will the final regulations be published and may I receive a copy of those regulations from your office?

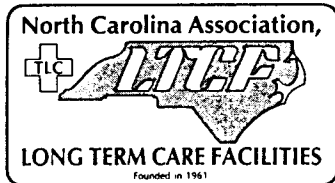
Thank you for your assistance.

Respectfully submitted,

Lou B. Wilson, Executive Director

LBW/npg

Enclosure(s)



NORTH CAROLINA ASSOCIATION, LONG TERM CARE FACILITIES

North Carolina's Original Assisted Living Association

September 10, 1997

Mr. Ron Tysinger, Director
N.C. Social Security Administration
3261 Atlantic Avenue, Suite 214
Raleigh, NC 27604

Re: Amendments Relating to Electronic Funds Transfer Section 3332 of Title 31,
United States Code, popularly known as the Federal Financial Management
Act of 1994, is amended _____ Public Law 104-134.

Dear Mr. Tysinger:

I am Executive Director of the North Carolina Association, Long Term Care Facilities, a trade association which represents hundreds of long term care facilities which house approximately 21,000 SSI and Social Security recipients. I am writing to express a concern of our members and to seek your assistance.

It is my understanding the above-referenced law mandates that Social Security, Supplemental Security Income and Veterans Benefits for all consumers be direct deposited into a bank account. Further, it appears that the Secretary of the Treasury may waive application of this law: (1) "to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not have an account with a financial institution or an authorized payment agent"; (2) "for individuals or classes of individuals for whom compliance imposes a hardship"; and (3) in other "circumstances as may be necessary."

This law is a serious hardship and presents monumental difficulties for almost 21,000 North Carolina consumers and more than 2,000 long term care providers. Consumers in North Carolina who live in assisted living/adult care homes (formerly known as rest homes) receiving these types of benefits are mandated to contribute the majority of their monthly incomes to pay cost of care to facilities. This leaves them with minimal or no funds for personal use. Consumers must purchase with these meager funds (\$51.00 per person, per month) all personal items including clothes and shoes, beauty and barber services or supplies, to name a few, in addition to paying co-payments required by government for medications, physicians, dentists, clinic visits, eye glasses, etc. The cost for these personal expenditures many times exceeds the allowable \$51.00 per month.

Page Two

Thousands of our consumers have no representative payee and/or family members who are willing or able to assist them. The majority of these recipients have no bank account and no funds to open and support a bank account.

In addition, North Carolina long term care providers would be out of compliance with our states comingling of funds law if electronic transfers were made into facility accounts. This law presents an unworkable and bureaucratic administrative nightmare for providers and consumers alike.

Therefore, could you please answer the following questions:

- Could there be a blanket waiver for a "class" of individuals who reside in North Carolina long term care facilities, or would the waiver have to be specific to each individual?
- Should we recommend to members that waivers requested be addressed to you? To regional North Carolina Social Security offices or to Ms. Withrow, Secretary of the Treasury, or what is a workable solution?

Our residents and members really need your help. Hopefully, we can assist each other to work this out and keep confusion for consumers, providers and the Social Security Administration at a minimum.

We will be happy to do a special mailing to all North Carolina facilities once we have information regarding the direction they need to go.

Thank you so much for your assistance. I can be reached at (919) 787-3560 in Raleigh.

Respectfully submitted,

Lou B. Wilson, Executive Director

LBW/npg
Enclosure (1)

the extent and in amounts provided in advance in appropriations Acts.

"(B) As soon as practicable after the end of the third fiscal year after which amounts transferred are first available pursuant to this section, and every 3 years thereafter, any uncommitted balance in the Account shall be transferred to the general fund of the Treasury as miscellaneous receipts.

"(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs."

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section."

"(2) CLERICAL AMENDMENT.—The table of sections for chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B (as added by subsection (j) of this section) the following new item:
"3720C. Debt Collection Improvement Account."

"(u)(1) DISCRETIONARY AUTHORITY.—Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:
"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), may implement this section at its discretion."

"(2) FEDERAL AGENCY DEFINED.—Section 6402(f) of the Internal Revenue Code of 1986 (26 U.S.C. 6402(f)) is amended to read as follows:
"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code)."

"(v)(1) NOTIFICATION OF SECRETARY OF THE TREASURY.—Section 3720A(a) of title 31, United States Code, is amended to read as follows:
"(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt."

"(2) IMPLEMENTATION OF SUPPORT COLLECTION BY SECRETARY OF THE TREASURY.—Section 464(a) of the Social Security Act (42 U.S.C. 664(a)) is amended—
"(1) in paragraph (1), by adding at the end the following: 'This subsection may be executed by the disbursing official of the Department of the Treasury'; and
"(2) in paragraph (2)(A), by adding at the end the following: 'This subsection may be executed by the Secretary of the Department of the Treasury or his designee.'"
"(w) Section 3720A(h) of title 31, United States Code, is amended to read as follows:
"(h)(1) The disbursing official of the Department of the Treasury—
"(1) shall notify a taxpayer in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable nontax debt;

"(B) the identity of the creditor agency requesting the offset; and
"(C) a contact point within the creditor agency that will handle concerns regarding the offset;

"(2) shall notify the Internal Revenue Service on a weekly basis of—
"(A) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(B) the amount of such offset; and
"(C) any other information required by regulations; and
"(3) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as that term is used in section 6109 of the Internal Revenue Code of 1986), and any other necessary identifiers."

"(h)(2) The term 'disbursing official' of the Department of the Treasury means the Secretary or his designee."
"TREASURY means the Secretary or his designee."
"(x)(1) AMENDMENTS RELATING TO ELECTRONIC FUNDS TRANSFER.—Section 3332 of title 31, United States Code, popularly known as the Federal Financial Management Act of 1994, is amended—
"(A) by redesignating subsection (e) as subsection (h), and inserting after subsection (d) the following new subsections:
"(e)(1) Notwithstanding subsections (a) through (d) of this section, sections 5120 (a) and (d) of title 38, and any other provision of law, all Federal payments to a recipient who becomes eligible for that type of payment after 90 days after the date of the enactment of the Debt Collection Improvement Act of 1996 shall be made by electronic funds transfer.
"(2) The head of a Federal agency shall, with respect to Federal payments made or authorized by the agency, waive the application of paragraph (1) to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not have an account with a financial institution or an authorized payment agent."

"(f)(1) Notwithstanding any other provision of law (including subsections (a) through (e) of this section and sections 5120 (a) and (d) of title 38), except as provided in paragraph (2) all Federal payments made after January 1, 1999, shall be made by electronic funds transfer."
"(2)(A) The Secretary of the Treasury may waive application of this subsection to payments—
"(i) for individuals or classes of individuals for whom compliance imposes a hardship;
"(ii) for classifications or types of checks; or
"(iii) in other circumstances as may be necessary."
"(B) The Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary.
"(g) Each recipient of Federal payments required to be made by electronic funds transfer shall—
"(1) designate 1 or more financial institutions or other authorized agents to which such payments shall be made; and
"(2) provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive

Records.

Notification.

rules, regulations, and procedures.

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3261 Atlantic Ave.
Suite 210
Raleigh, NC 27604

September 15, 1997

Lou B. Wilson
Executive Director
North Carolina Long Term Care Facilities
4010 Barrett Drive, Suite 102
Raleigh, North Carolina 27609

Dear Ms. Wilson:

The information that is available to the Social Security Administration (SSA) regarding the implementation of the final phase of the mandatory Electronic Fund Transfer (EFT) provision of P.L. 104-134 is limited. The Secretary of the Treasury has the authority to identify exemption categories for which the use of EFT shall not be required.

At this time, the only known exemption category is for those beneficiaries residing outside the United States where no international direct deposit arrangements exist to pay them. However, additional exemption categories are expected to be available when the Department of Treasury publishes its final regulations. According to information received from our Regional Office Policy Division, Treasury is in the process of considering several exemptions due to concerns raised by various advocacy groups and organizations.

Once the final regulations are published, SSA will be made aware of the specific exemption categories and instructions will be issued to SSA field offices Nationwide regarding how to process them. Since we have not yet received operating instructions, I am unable to specifically address your questions regarding waivers for residents of long term care facilities in North Carolina.

Certainly your concerns are valid and are likely shared by your counterparts in other states. Since it is the Department of Treasury that will determine the exemption categories, I recommend that you direct your concerns in writing to:

US Department of Treasury
Cynthia L. Johnson, Director
Cash Management Policy & Planning Division
Financial Management Service
Room 420, 401 14th St. S.W.
Washington, DC 20227

If you have questions or would like to discuss this issue further, you may contact Jennifer Williams of my staff at (919) 790-2763.

Sincerely,

A handwritten signature in cursive script that reads "Ron Tysinger". The signature is written in dark ink and is positioned above the printed name and title.

Ron Tysinger
State Director
North Carolina